Recreational Access to Mount Seaton in the Bulkley Valley

Complaint Investigation 020390

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The Investigation

The Complaint

In December 2001, the Ministry of Forests (MOF) approved a silviculture prescription for cutblock CP 551-1 on Mount Seaton, about 40 kilometres north of Smithers in the Bulkley Valley. A local backcountry skier (the complainant) asserts that MOF approved the silviculture prescription without regard to concerns that the cutblock would allow snowmobile access to an alpine area with no history of snowmobile use. The complainant believes that skiers will have to abandon the alpine area if snowmobile use reduces its value for skiing.

Background

Backcountry skiers and snowmobile users have been at odds in the Bulkley-Cassiar Forest District for 25 years. The concern is one-sided. Skiers feel that snowmobiles detract from a wilderness experience and create potentially dangerous snow conditions. Snowmobile use is, however, unaffected by skiers. Forest development may heighten the conflict by improving access for both users.

In 1997, a consensus-based recreational access management plan (RAMP) resolved most of the recreational access issues in the Bulkley Valley by designating areas exclusively for motorized or non-motorized use. Unfortunately, the area surrounding Mount Seaton was one of several that was left unresolved by the RAMP, as there was no consensus about its use. Snowmobilers and skiers continue to share the unresolved areas.

Snowmobiles do not yet affect skiing in the complaint area. According to the complainant, it is one of few places within the larger unresolved area that is still inaccessible to today's high-technology snowmobiles. The complainant wants assurance that skiers can have reasonable access to untracked snow. It is not known whether recreational snowmobilers actually wish to, or will, use the alpine area above cutblock CP 551-1.

During public review of an amendment to the licensee's forest development plan (FDP), the complainant commented that cutblock CP 551-1 would disrupt an existing ski trail and also provide access for snowmobiles to the alpine area above the cutblock. The licensee and complainant worked together to resolve the concern about the ski trail. However, the access concern was not resolved. The licensee felt it was not responsible for determining whether a particular recreational use should be restricted.

Both the complainant and licensee subsequently urged the district manager to resolve the recreational access issue in the Bulkley Valley by restarting the RAMP process. However, restarting that process is not up to the district manager. The Ministry of Sustainable Resource Management (MSRM), not MOF, is responsible for strategic planning.

The district manager approved the silviculture prescription for cutblock CP 551-1 on December 18, 2001. The district manager did not write a rationale for approval, but did respond by letter to the complainant's concerns. To date, the licensee has harvested only part of the cutblock.

Issue

Was the district manager's approval of the silviculture prescription appropriate?

Discussion

Under section 41 of the *Forest Practices Code of British Columbia Act* (the Act), a district manager may only approve an operational plan if it is prepared and submitted in accordance with the Act and regulations (the Code), and if the district manager is satisfied the plan will adequately manage and conserve forest resources. Forest resources include recreation.

The Code does not require any specific content about recreation in a silviculture prescription, only that the prescription include any long-term objectives set out in the approved FDP. The silviculture prescription for cutblock CP 551-1 includes management objectives stated in the licensee's FDP. It identifies the existing ski trail and a summer hiking trail, and describes harvesting conditions to protect those trails, consistent with guidance provided by the *Reiseter Landscape Unit Plan*, which applies to the area. The Board finds the licensee met Code requirements relevant to recreation in the silviculture prescription for cutblock CP 551-1.

In order to be satisfied that a silviculture prescription will adequately manage and conserve forest resources, a district manager must have an adequate basis of information. Before deciding to approve the silviculture prescription for cutblock CP 551-1, the district manager obtained information about recreational values from the RAMP, the complainant's comments, the licensee's response, his own knowledge, and advice from staff and others.

MOF had participated in the RAMP process, so the district manager was aware of the history of conflict between users. He also knew there was no community consensus about recreational use of the area surrounding Mount Seaton. Before approving the silviculture prescription, the district manager contacted MSRM. At the time, MSRM had no immediate plans to re-open the RAMP process.

As an alternative, the licensee noted that the district manager could impose an interim order restricting motorized recreation in the area. Section 105 of the Act allows a district manager to legally restrict recreational use anywhere on Crown land, but nothing in the Code obligates the district manager to choose one recreational use over another. The district manager told the Board that, in this instance, he was not willing to use section 105 because the RAMP had given no community guidance on the need to restrict any recreational use in the area. The district manager said he would prefer to impose an order that was supported

by community consensus. Determination of community consensus, if any, is the responsibility of MSRM.

The district manager considered the risk of the silviculture prescription to backcountry skiing by reviewing the licensee's and complainant's comments, forest cover maps, photographs and the opinion of others – including staff and snowmobile users. The district manager considered that the complainant and licensee had said the alpine area above cutblock CP 551-1 had no history of snowmobile use, yet it was close to another area that received extensive snowmobile use. Existing roads provided nearby access, so the district manager remained uncertain whether the relatively small alpine area above the cutblock was not being used because it was inaccessible by snowmobiles, or simply because it was unattractive to snowmobile users.

The district manager's opinion is that harvesting cutblock CP 551-1 will improve snowmobile access to the alpine, but will not create easy access because a fringe of mature forest will remain above the cutblock after harvest, impeding snowmobile access. The district manager concluded that there was low risk of snowmobiles using the alpine area after harvesting of the cutblock.

The Board finds that it was appropriate for the district manager to approve the silviculture prescription. The silviculture prescription met Code requirements concerning recreation. The district manager was aware of the views of the complainant and considered relevant information in deciding that the plan would adequately manage and conserve recreation values. While the district manager recognized that recreational conflict might be heightened by development of the cutblock, he assessed the likelihood of that conflict to be low.

When he approved the silviculture prescription, the district manager was aware that he has authority under the Code (but no obligation) to manage potential conflicts between recreational users. The district manager chose not to impose a restrictive regulation without further guidance from a community process. If a conflict develops, then a Code regulatory response under section 105 of the Act could be further considered.

Conclusion

The district manager's decision to approve the silviculture prescription was appropriate.

Commentary

This is the fourth complaint to the Board about recreational access in the Bulkley Valley. The Board prefers to see chronic complaint issues resolved. That is not happening in this instance.

Continued increasing conflict between skiers and snowmobile users appears to be unavoidable. The complainant maintains that a skilled and motivated rider can access almost any terrain on today's snowmobiles. As snowmobile technology continues to improve, machines with still greater agility will progressively shrink the area available for undisturbed backcountry skiing.

In the Board's opinion, it would be inappropriate for government to continue to let chronic conflict about forest recreational access worsen, especially given that one legitimate user-group is penalized by default. In its 1999 report, *Restrictions on Motorized Vehicle Recreation in the Harold Price and Blunt Creek Areas*, the Board recognized that MOF was not obligated to impose restrictions on snowmobile access to maintain the quality of backcountry skiers' recreation. However, the Board recommended that government provide some policy guidance to Code statutory decision-makers on how to administer recreational conflict by use of section 105 orders under the Act. MOF, at both the district level and provincially, rejected that recommendation. Four years later, the conflict appears to have worsened.

For forest recreation and recreational tourism to thrive, both motorized access and non-motorized access should be zoned. Section 105 of the Act provides a tool for enforcement of strategic decisions about recreational use. The Board has previously agreed that section 105 should not be used to impose a restriction on recreational use (such as motorized use) where consensus on use can be achieved by a community-driven planning process. However the corollary is, where community consensus cannot be achieved, use of section 105 may be necessary.

The participants to this complaint all want the RAMP to resolve the outstanding access issues in the Bulkley Valley, preferably by community consensus. Alternatively, an accepted dispute-resolution process could achieve results. MSRM staff told the Board that if the local volunteer Community Resources Board (CRB) would take the lead, the ministry could possibly provide a small amount of funding and staff support for re-opening the RAMP process. The CRB Chair told the Board that, since it is a volunteer organization, it wants MSRM to support and coordinate the process.

In the meantime, the licensee has offered to schedule the remaining harvesting of CP 551-1 so that the portion of the cutblock most likely to allow snowmobile access to the alpine is harvested last–perhaps in 2003 or 2004. That delay could provide a sufficient window for the community to act on resolving the broader issue of recreational access in the unresolved area. The Board encourages government and the people of Bulkley Valley to take advantage of that opportunity.